

CITY COUNCIL STUDY SESSION ITEM

SUBJECT

Review of the Planning Commission recommendation to amend the Comprehensive Plan with the Lorge-Benis 2012 Comprehensive Plan Amendment (CPA) (12-104629 AC).

STAFF CONTACT

Chris Salomone, PCD Director, 452-6191
Dan Stroh, Planning Director, 452-5255
Paul Inghram, AICP, Comprehensive Planning Manager, 452-4070
Nicholas Matz, AICP, Senior Planner, 452-5371
Planning & Community Development

POLICY ISSUES

Comprehensive Plan

Bellevue's Comprehensive Plan is amended annually to reflect local needs, new information, and new laws. The Growth Management Act states that comprehensive plans may be amended no more frequently than once per year (with limited exceptions) so that the cumulative effect of the proposals can be considered.

Decision Criteria for CPAs

The Planning Commission may recommend and the City Council may approve or approve with modifications an amendment to the Comprehensive Plan if the following Final Review Decision Criteria from Section 20.30I.150 of the Land Use Code are met:

- A.1 There exists obvious technical error in the pertinent Comprehensive Plan provision; or
- B.1 The proposed amendment is consistent with the Comprehensive Plan and other goals and policies of the City, the Countywide Planning Policies (CPP), the Growth Management Act, and other applicable law; and
- B.2 The proposed amendment addresses the interests and changed needs of the entire City as identified in its long-range planning and policy documents; and
- B.3 The proposed amendment addresses significantly changed conditions since the last time the pertinent Comprehensive Plan map or text was amended. See LUC 20.50.046 [below] for the definition of "significantly changed conditions"; and
 - Significantly changed conditions are defined as:** Demonstrating evidence of change such as unanticipated consequences of an adopted policy, or changed conditions on the subject property or its surrounding area, or changes related to the pertinent Plan map or text; where such change has implications of a magnitude that need to be addressed for the Comprehensive Plan to function as an integrated whole. *This definition applies only to Part 20.30I Amendment and Review of the Comprehensive Plan (LUC 20.50.046).*
- B.4 If a site-specific proposed amendment, the subject property is suitable for development in general conformance with adjacent land use and the surrounding development pattern, and with zoning standards under the potential zoning classifications; and
- B.5. The proposed amendment demonstrates a public benefit and enhances the public health, safety, and welfare of the City.

State Environmental Policy Act

The Environmental Coordinator for the City of Bellevue determined that the 2012 Comprehensive Plan amendment package—consisting of the Lorge-Benis CPA—will not result in any probable, significant adverse environmental impacts. A final threshold determination of non-significance (DNS) was issued on October 25, 2012.

Planning Commission recommendation

The Planning Commission recommends approval of the Lorge-Benis site-specific CPA on a vote of 3-2. A summary of their review and recommendation is found in the Background section of this memo. The Planning Commission Transmittal and the staff report are provided in the attachments.

DIRECTION NEEDED FROM COUNCIL

	Action
<u>X</u>	Discussion
<u>X</u>	Information

Staff is seeking Council direction to return with an ordinance for Council action on the proposed amendment on December 10, 2012.

BACKGROUND/ANALYSIS

In 2012 the City received four requests for privately initiated, site-specific CPAs. Two were withdrawn before Threshold Review (Holy Cross and Banner Bank), one was not advanced by Council out of Threshold Review (Leggate-Balwada), and Lorge-Benis is before you now for Final Review.

The Planning Commission recommends **approval** (see below) of the Lorge-Benis privately-initiated site-specific CPA as the sole 2012 Comprehensive Plan Amendment. On November 26, staff is prepared to provide a brief overview of the proposal, and Planning Commission Chair Carlson has been invited to present the Commission's recommendations.

The Commission's recommendation considered development constraints proposed by the applicant to prohibit ground-floor retail and to encourage housing developed under the proposed CB designation. The Commission deemed such constraints to CB development for this site appropriate and reasoned that they should be implemented through zoning provisions applied to this site.

Proposal Overview

The proposed CPA would amend the map designation on a 0.83-acre, 3-parcel site from PO (Professional Office) to CB (Community Business). There are three separate properties in the CPA site, owned by Dr. Lorge (4307) (applicant), Mr. Benis (4317) (applicant), and Dr. Sherwood (4301). Each is a longtime owner. Although included through geographic scoping, Dr. Sherwood is opposed to the CPA.

The 1993 annexation of Factoria resulted in the City adapting the Comprehensive Plan to a pattern of existing core areas of higher density office and retail that had been allowed by King County codes. Plan updates in 1996 and 2005 furthered the vision of a transit-supportive, pedestrian-oriented, mixed-use

urban neighborhood in the commercial core area of Factoria. Consisting of the CB, OLB, and O districts, the core is intended for some of the most intense commercial redevelopment anticipated outside of the Downtown or the Bel-Red Corridor. CB districts typically serve community markets and provide areas for the location of community-serving services and retail outlets. In contrast, PO districts normally provide areas for low-intensity offices in the transition areas at the edges of more intense districts.

Dr. Lorge has submitted multiple site-specific CPA applications in 1996, 2008, 2009, and 2012. Mr. Benis first joined him in the 2012 application.

Planning Commission Recommendation Summary

The Planning Commission's rationale describing their recommendation and how the proposal meets Final Review criteria for amendments is presented in the Transmittal:

- The Planning Commission recommends by a vote of 3-2 (Commissioners Ferris and Sheffels dissenting, Commissioners Tebelius and Hamlin excused) that the City Council **approve** the Lorge-Benis site-specific Comprehensive Plan Amendment (CPA) to change the map designation of on a 0.83-acre, 3-parcel site at 4307, 4317, and 4301 Factoria Boulevard SE from PO (Professional Office) to CB (Community Business).

The Planning Commission finds that the Final Review Decision Criteria have been met for this proposed Comprehensive Plan Amendment as set forth in the Final Review Decision Criteria (LUC 20.30I.150).

Commissioners found that the applicant has demonstrated consistency with the Comprehensive Plan in their application materials and presentation. The Commission also believes that it is in the City's interest to encourage redevelopment of such sites in the Factoria Subarea with a designation that makes sense for their small size. Commissioners also find that a significantly changed condition exists, caused by the Comprehensive Plan's failure to anticipate that the original King County development regulations that created the current development conditions are not an adequate basis for redevelopment. The Commission also acknowledged analysis by the applicant that the site is suitable for CB development in general conformance with surrounding land use. Finally, a public benefit would be gained from visually improving these sites through redevelopment.

The Commission reasoned that the development constraints proposed by the applicant– to restrict retail and encourage housing – would help to craft a hybrid zoning condition that combines the benefits of Professional Office with an ability to create a more intense, mixed use project under the CB designation. The Planning Commission's recommended Comprehensive Plan amendment does not explicitly include policy language addressing these constraints to CB. If the Council wishes to adopt the recommended CB designation together with explicit policy direction addressing the applicant's proposed constraints on CB, the Council could adopt a companion policy amendment (Alternative 2, below). Such a policy could be:

- *Use the CB designation to allow a mix of professional office and residential uses, and restrict retail, at the commercial node located at Factoria Boulevard and Newport Way.*

A minority of Commissioners concluded that the proposal does not meet the Decision Criteria for CPA approval, including consistency with the city-wide Comprehensive Plan. Their position is presented in the attached Planning Commission Transmittal.

PUBLIC HEARING

A Final Review public hearing with the Planning Commission was held on the Lorge-Benis proposed amendment on November 14, 2012. Notice of the public hearing was published in the Weekly Permit Bulletin and in *The Seattle Times* on October 25, 2012. Additional noticing information and public comments are provided in the Transmittal.

The staff report provided as the basis for the Public Hearing recommended disapproval of the proposal. This report is included as Attachment B.

ALTERNATIVES

Tonight's study session is intended to introduce the Planning Commission's recommendations on the sole 2012 Comprehensive Plan amendment discussed herein. Following Study Session review, staff will seek Council direction to return with an ordinance for Council action on the proposed amendment. Alternatives include:

1. Direct staff to return with a proposed ordinance approving the CPA as recommended by the Planning Commission.
2. Direct staff to return with a proposed ordinance approving the CPA, with additional Comprehensive Plan policy language capturing the development constraints proposed by the applicant.
3. Direct staff to return with a proposed ordinance denying the CPA.

RECOMMENDATION

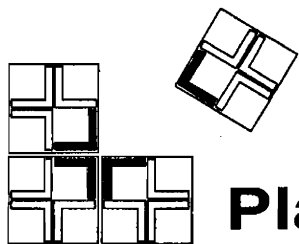
Alternative 1

ATTACHMENTS

- A. Planning Commission Transmittal for Lorge-Benis dated November 19, 2012
- B. Staff recommendation from November 14, 2012 Final Review Public Hearing

AVAILABLE IN COUNCIL OFFICE FOR REVIEW

Files containing the Lorge-Benis staff report, SEPA documentation, public notice, public comment, and other background information are available in the Council Office for review.



Planning Commission

TRANSMITTAL

DATE: November 19, 2012

TO: Mayor Lee and Members of the City Council

FROM: John Carlson, Chair
Members of the Bellevue Planning Commission

SUBJECT: Final Review Recommendation for 2012 privately-initiated site-specific Comprehensive Plan Amendment (CPA): Lorge-Benis (12-104629 AC)

I. RECOMMENDATION

With this Transmittal the Planning Commission recommends by a vote of 3-2 that the City Council:

- APPROVE the Lorge-Benis site-specific Comprehensive Plan Amendment (CPA) to amend the map designation on this three-parcel, 0.83-acre site at 4307, 4317, and 4301 Factoria Boulevard SE from PO (Professional Office) to CB (Community Business).

This proposal satisfies the Final Review Decision Criteria for a Comprehensive Plan Amendment as set forth in the Land Use Code in Section 20.30I.150. The Planning Commission came to this recommendation through the Final Review steps in the CPA process, and with extensive public comment from all of the property owners in the CPA site. The Commission received objections from residents east of Factoria Boulevard during Threshold Review but did not receive any objections from them in the Final Review hearing.

The Commission has concluded that the recommendation will encourage an overdue redevelopment of this small but visually important site, and that such redevelopment is consistent with Comprehensive Plan policy, would be in general conformance with the surrounding area, and will benefit the Factoria Subarea.

The applicant provided sufficient evidence that it would be difficult to redevelop under the PO zoning, including testimony and materials submitted by a professional planner. No contrary evidence was submitted. While it is unfortunate that the proposal did not get the support of all of the property owners (see Section III Public Notice and Comment), there is a public benefit to not have the site remain stuck in its current state. Redevelopment will provide greater services for the neighborhood, increase taxes from development, and provide a good location for residential development.

The Commission also wishes to acknowledge the dissenting opinion on the Commission, which concluded that the proposal did not meet the criteria for consistency with the Comprehensive Plan. This opinion is that more intense mixed use development on this site, separated from the commercial core by multifamily neighborhoods, would be inconsistent with the Factoria Subarea Plan vision for limiting concentrations of commercial uses to the Factoria core. The minority also noted that the site's suitability for development was compromised in that residential development proposed under the Community Business designation is likely not economically viable, but that redevelopment under Professional Office would continue to be a reasonable option and also provide the same public benefit of visual improvement.

Finally, the Commission notes that the applicant proposed limitations on the location of allowed retail under the proposed CB designation, as well as a requirement for a portion of affordable housing. The Commission acknowledges that such constraints on CB development on this site are appropriate. It is desirable that the rezone conditions include the applicant-proposed prohibition of ground-floor retail and affordability provisions for housing.

II. BACKGROUND

Dr. Lorge has a chiropractic practice and has owned his building (4307) since 1996. Mr. Benis and his family have owned their buildings (4317) since 1969. Dr. Sherwood owns a dental practice and has owned his building (4301) since 1982.

The proposal site area includes the Lorge and Sherwood properties each at about 0.2 acres or 9,000 square feet; the Benis property is about 0.4 acres or 18,000 square feet. The site is surrounded on three sides by Newport High School parking and by Factoria Boulevard, with its close proximity to the intersection with Newport Way, on the fourth side.

When Factoria was annexed in 1993 the Comprehensive Plan adapted to a pattern of existing core areas of higher density office and retail that had been allowed by King County codes. The Plan has always contemplated a core commercial area, surrounded by decreasing densities of commercial and residential uses. Annexation created the opportunity to move Factoria farther in the direction of a mixed use urban neighborhood, anchored by the core density areas.

Plan updates in 1996 and 2005 furthered the vision of a well-integrated, transit-supportive, pedestrian-oriented, mixed-use urban neighborhood in the commercial core area. Consisting of the CB, OLB, and O districts, the core is intended for some of the most intense commercial redevelopment anticipated outside of Downtown or the Bel-Red Corridor. CB districts typically serve community markets and provide areas for the location of community-serving services and retail outlets. In contrast, PO districts normally provide areas for low-intensity offices in the transition areas at the edges of more intense districts.

Dr. Lorge submitted multiple site-specific CPA applications in 1996, 2008, 2009, and 2012. Mr. Benis first joined him in the 2012 application. Dr. Sherwood's parcel was for the first time included in 2012 through the Planning Commission's expansion of geographic scope, although Dr. Sherwood hasn't applied for a CPA and opposes the present application.

The question of appropriate designation was first examined in 1996. When the site was annexed in 1994 it was designated SF-H (Single Family-High). Then in 1996 the city-initiated “Factoria Inconsistencies” CPA proposed a PO (Professional Office) designation for the three parcels. Dr. Lorge requested consideration of O (Office) instead; the City Council remanded the proposal back to the Planning Commission for further consideration of that request. Ultimately, both the Commission recommendation and the final Council action confirmed the PO designation.

Dr. Lorge made a CPA application in 2008 to change from PO to CB. The Planning Commission (5/14/08) recommended to not advance it out of Threshold Review. Dr. Lorge withdrew his application before the City Council could take up the Planning Commission recommendation.

Dr. Lorge introduced the idea of constraining development with conditions that would apply to a rezone of the property in the 2009 CPA proposal (also a change to CB). His proposed rezone conditions would have prohibited retail uses on a ground floor office of buildings, and required an affordable housing component in allowed residential uses. Faced with another Planning Commission recommendation (4/22/09) to not advance the application out of Threshold Review he again withdrew the application.

In 2012, Dr. Lorge and Mr. Benis applied together seeking a change from PO to CB with rezone conditions proposed to limit the intensity of redevelopment under a CB zone.

III. PUBLIC NOTICE AND COMMENT

The application was introduced to the Planning Commission during study session on March 19, 2012. Notice of the Application was published in the Weekly Permit Bulletin on March 1, 2012, and mailed and posted as required by LUC 20.35.420.

Notice of the May 9, 2012 Threshold Review Public Hearing before the Planning Commission was published in the Weekly Permit Bulletin on April 19, 2012.

Notice of the November 14, 2012, Final Review Public Hearing before the Planning Commission was published in the Weekly Permit Bulletin on October 25, 2012 and included notice sent to parties of record.

The Planning Commission made its Final Review recommendation on the proposal after considering the staff report recommendation, the proposal application, the record provided, and public testimony submitted in writing or given at the November 14, 2012, public hearing.

Dr. Lorge submitted information for consideration during the Final Review hearing through his planning consultant, and Mr. Benis provided oral testimony on behalf of his mother for whom he is acting as agent. The applicants stated that the proposal would allow uses consistent with what is already across the street (multifamily) and with the already intense surrounding school uses. They opined that an increase in zoning intensity would not be incompatible with those uses. The applicants provided evidence supporting their contention that it is not economically feasible to redevelop under current zoning, noting that potential tenants have called asking to locate on site, thus demonstrating the value of facilitating redevelopment. The surrounding area infrastructure

such as nearby bus stops, the school, and the site topography make this an excellent place for redevelopment.

Dr. Sherwood was not one of the original applicants; he testified as to his concern about how due to the topography that redevelopment could block visibility of his building and thereby hurt the businesses there. Dr. Sherwood stated that PO is consistent with the intent for the site as a transition from commercial to residential uses. Dr. Sherwood also pointed out that Factoria does not need any more CB zoning.

In his previous testimony Dr. Sherwood also noted his opposition to the proposal in a letter dated April 9, 2012. Dr. Sherwood suggested the community vision should foresee the public's health care needs in this Subarea and that given a proper chance for redevelopment, the existing PO parcels could remain an outstanding location for medical and dental office space. In an August 27, 2012, letter restating his objections, Dr. Sherwood emphasized his view of the transitional nature of the PO district, especially in this area adjacent to the high school, accessible to neighborhoods, and distinct from the Subarea's commercial development focus on Factoria Mall.

The Commission received objections to the proposal during Threshold Review but received no public testimony in opposition during Final Review.

IV. STATE ENVIRONMENTAL POLICY ACT (SEPA)

The Environmental Coordinator of the City of Bellevue issued a Determination of Non-Significance on October 25, 2012.

V. REVIEW PROCESS AND APPLICATION OF DECISION CRITERIA

The Final Review Decision Criteria for a proposed Comprehensive Plan Amendment are set forth in the Land Use Code in Section 20.30I.150. A proposal must meet all of the criteria to be recommended for approval.

This conclusion is based on the following Commission analysis:

A. There exists obvious technical error in the pertinent Comprehensive Plan provision, or

This criterion does not apply.

B1. The proposed amendment is consistent with the Comprehensive Plan and other goals and policies of the city, the Countywide Planning Policies (CPP), the Growth Management Act and other applicable law; and

The Commission found that that the applicant's proposal will help the site redevelop consistent with the Comprehensive Plan's support for attractive, urban development and housing choices, and the Factoria Subarea Plan's policies supporting high quality urban design.

The Commission recognized the numerous policies identified by the applicant that support the proposal. The Commission defers to the preponderance represented by the application materials establishing consistency with the Comprehensive Plan.

B2. The proposed amendment addresses the interests and changed needs of the entire city as identified in its long-range planning and policy documents; and

The proposed amendment addresses the interests and changed needs of the city by allowing this small site to benefit from economic redevelopment. The consequence of introducing Community Business separate from the Factoria commercial core was not harmful to those overall interests and changed needs because the site is simply not big enough to create significant impacts.

B3. The proposed amendment addresses significantly changed conditions since the last time the pertinent Comprehensive Plan map or text was amended. See LUC 20.50.046 [below] for the definition of “significantly changed conditions”; and

Significantly changed conditions are defined as: Demonstrating evidence of change such as unanticipated consequences of an adopted policy, or changed conditions on the subject property or its surrounding area, or changes related to the pertinent Plan map or text; where such change has implications of a magnitude that need to be addressed for the Comprehensive Plan to function as an integrated whole. *This definition applies only to Part 20.30I Amendment and Review of the Comprehensive Plan (LUC 20.50.046).*

The Commission affirms that the issue of establishing significantly changed conditions is complicated by the original regulation of these small sites under King County regulation. This had the effect of creating an awkward situation after annexation where there was no immediately obvious redevelopment solution. Thus, the basis for a significantly changed condition relates to the unanticipated consequences of policy adopted by the City for the Factoria Subarea’s commercial core, which failed to anticipate that the King County basis for regulation would not be adequate when it came time for redevelopment.

The evidence submitted by the applicants showed that redevelopment was unfeasible under the PO designation, whereas redevelopment under the CB designation—which allows for residential uses as well as commercial uses—was feasible even with conditions restricting the intensity of future development.

B4. If a site-specific proposed amendment, the subject property is suitable for development in general conformance with adjacent land use and the surrounding development pattern, and with zoning standards under the potential zoning classifications; and

The Commission found that the applicant’s evidence, including a site plan showing the proposed development, indicated that the subject property could be suitable for development in general conformance with adjacent land use and the surrounding development pattern, including the new multifamily development across Factoria Boulevard from the site.

B5. The proposed amendment demonstrates a public benefit and enhances the public health, safety and welfare of the city.

The Commission is concerned about the run-down and decrepit condition of the sites and buildings on the subject property, which generally present a picture of “stuck in the 1970s.” The Commission agrees with the applicant’s contention that with the history and present state of the buildings it was not economically feasible under current zoning to remodel or redevelop them in any significant manner. It is therefore a public benefit to allow their redevelopment as proposed by the applicant, which would in turn provide the public benefit of visually improving this area through new buildings, aesthetic improvements, additional housing and economic opportunity.

VI. CONCLUSION

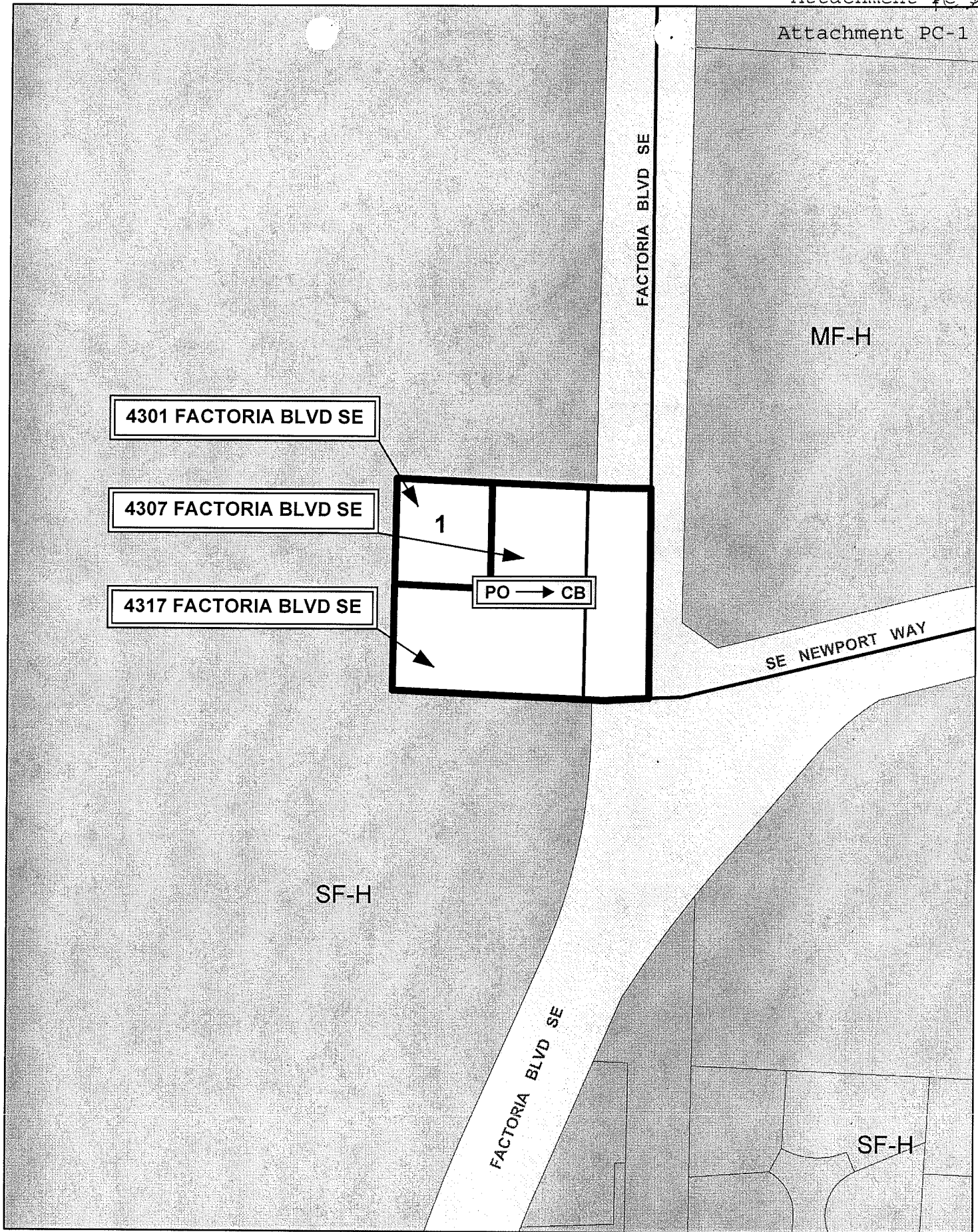
The Planning Commission recommends by a vote of 3-2 the City Council **approve** the Lorge-Benis site-specific Comprehensive Plan Amendment (CPA).

ATTACHMENTS

PC-1. CPA site area

PC-2. Applicant and public comments from November 14

Council note: The application file materials, staff recommendation and other related materials are located in the Council office.



Lorge-Benis CPA
Proposed Comprehensive Plan Designations

June 2012

R.W. THORPE & ASSOCIATES, INC.

Seattle • Anchorage • Denver • Winthrop

◆ Planning | Landscape Architecture | Project Management | Environmental | Economics ◆

PRINCIPALS:

Robert W. Thorpe, AICP, President
Stephen Speidel, ASLA

ASSOCIATES:

Lee A. Michaelis, AICP, Senior Associate
Lindsay Diallo, RLA, Associate

Lorge Rezone - Public Hearing

November 14, 2012

A. Contract Rezone - New Application – Change in Circumstances

▪ Request is a Change in Previous Application - Contract Rezone

Conditions

- Height: 4 Story (45 foot height limit from the west boundary, which would result in the appearance of 2-1/2 stories 25-30 feet from Factoria Boulevard).
- Uses:
 - Residential (2 floors)
 - Office (2 floors)
 - Parking Below Grade – Below Offices
 (No retail sales uses are proposed.)

B. Changed Circumstances

1) Time since Sub-Area Update

~~Last plan update greater than 6-8 year GMA requirement.~~ The requirements for sub-area and citywide comprehensive plans have been extended due to State Budgets. This update was proposed for 2009, then 2011 and 2012, and now it has been extended to 2015. Existing sub-area is out of date – providing for site-specific applications.

2) Mid-2000's Transportation Plan Implemented:

Arterial, sidewalk, transit, bus stop improvements have been implemented.

(Note: Staff analysis shows no impact on traffic circulation turning movements, LOS from proposed contract rezone.) The Sherwood Office Building has good visibility to the traffic on Factoria Boulevard southbound, that will not be affected by redevelopment of the Lorge and Benis properties.

3) Height of the buildings, east side of Factoria Boulevard: (Note: Photographs provided at last meeting show new 4-story apartment building at the intersection of SE 241st and Factoria Boulevard just southeast of the subject site.) (St. Margaret's Rezone.)

Zoning/land use planning principles encourage like uses facing each other on streets and arterials, with the transition at mid-block behind parcels facing the street. The proposed uses/height would complement any new or future development on the Saint Margaret's Church site, and surrounding land uses, as well as provide a land use transition buffer for extensive parking on the east side of Newport High School and the lighting from sports fields.

4) Abandonment of proposed apartment development at Factoria Square – Wal-Mart Store opening.

C. Additional Factors Supporting Request

- 5) This change will not set a precedent – only one small site (professional office in former single family structure) north of the subject property on the west side of Factoria Boulevard. (See testimony at previous Planning Commission meeting.
- 6) Newport High School, a High Intensity Use, i.e., Parking surrounds the subject properties on the north and west, and a large parking lot to the south to the intersection of SE Newport Way and Factoria Boulevard. Some of the property owners in this area have “informal” reciprocal agreements with the School District for shared parking which benefits private properties during the day, and the tenants and School for activities/sporting events, many of which occur during non-business hours. The building tenants provide services to NHS students and staff who find it convenient to seek services within walking distance (ex: youth counseling and eye clinic currently, driving school, dental offices in the past).
- 7) Demand – Office/Support Services/Residential Uses
Property owners and their consultants have received phone calls virtually every week, inquiring about office space and apartment use – i.e. Magnet School – Newport.
- 1) Economic Feasibility of Rehabilitation of Older buildings including Conditions of Benis and Lorge Buildings

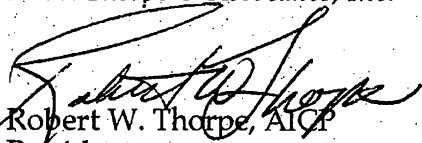
Benis building was former farmhouse for a dairy that was taken by condemnation for the Newport site, leaving small residual site, significantly reducing its functional utility. The existing buildings age, current code requirements, and structural issues render it not economically feasible to add another story or rebuild. The existing building code does not make building replacement economically viable.

With NHS redevelopment complete, this area is no longer “in limbo”. At one point Bellevue School District looked at a take on the Benis property, moving the school access to the Benis leg of the signaled intersection. However, they moved the access to the North.

Conclusion: Our firm’s professional opinion based upon 40+ years of experience in both the public and private sectors is that the application warrants Planning Commission approval to the City Council for their review. (Note: Both Planning Commission and City Council recommended approval by 6:1 votes.)

Thank you for all your time in reviewing this application. Please affirm your previous findings.

Respectfully submitted,
R. W. Thorpe & Associates, Inc.



Robert W. Thorpe, AICP
President

NOTES FOR COLE SHERWOOD'S PRESENTATION TO
BELLEVUE PLANNING COMMISSION – NOVEMBER 14, 2012

1. Commercial development of the adjoining parcels with 45 foot heights allowed will result in **FDP being hidden from adjacent streets**. Lack of visibility means less patients. Less patients means less revenue. Less revenue means tenant relocation. I have been assured by my two tenants of this fact. Tenant relocation means financial distress for me. CB designation is simply not in general conformance with adjacent land use. It reduces setbacks which in turn reduces accessibility to FDP
2. PO is **consistent with the existing Comprehensive Plan and goals** of the City. Stated City policy is to limit commercial use to the Factoria Mall core. PO designation presents a less intense, gentler and kinder land use as a transition between the High School and the adjoining residential use which is exactly what stated City policy requires.
3. The only **"significantly changed condition"** since the last CPA application for these properties -2008- is increased residential intensity on adjacent properties. **This mitigates in favor of PO rather than CB**. Increased residential density and the existence of adjacent churches increases the need for a transition zone. The last thing Factoria needs is commercial property outside of the commercial core. City policy agrees.

The Planning Commission believes there are significantly changed conditions. Your staff finds no such substantial changes exist which are relevant to this application. The Commission found significantly changed conditions are supported by the fact that the buildings would be **economically unfeasible to remodel**. Since

when does the economics of remodeling meet the City's definition of significantly changed conditions? How does the economics of remodeling meet the requirement that such change of conditions must be of a magnitude that they need to be addressed in a Comprehensive Plan Amendment?

My lawyer represents to me that there is case law which holds that site specific Comprehensive Plan Amendments must be supported by substantial evidence of changed conditions. Staff found none. The applicant says St. Margaret's represents a substantial change. The Commission found St. Margaret's not relevant to this application. Yet the Commission finds a substantial change of conditions.

My lawyer represents to me that there is case law which holds that when a site specific Comprehensive Plan Amendment or rezone is granted which provides a benefit to one group but a detriment to neighbors, it should be over turned. 45 foot buildings with an 8 foot setback will destroy the economic vitality if FDP. If granted, the amendment will be to my detriment, and in turn place FDP without adequate parking, emergency services or handicapped parking adjacent to my building.

4. Dr. Lorge's property is ill suited for commercial development but may continue to support professional offices. The shared parking requirement first imposed by King County further complicates this problem. In the past the Benis property has successfully supported 4 dentists. It has supported chiropractic use, as well as optometrists. These are all professionals needed by local residents and high school students.
5. The PO meets the subarea plan of keeping commercial activities in the commercial core. If the application is approved the City of Bellevue will have opened the door to creeping commercialism. It will represent a change of conditions supporting future

comprehensive plan amendment applications. *If you give a mouse a cookie he's going to want a glass of milk.*

It will result in 45 foot high buildings adjacent to two of the most successful dental practices in Bellevue. Those buildings will isolate my tenant's dental practices.

Commercial development outside the core is neither a public benefit nor does it enhance the welfare of the city.

As staff reports, the application meets none of the 5 decision criteria specified for final review. It certainly fails to meet decision criteria 4 from the statute requiring that the Loge and Benis properties are suitable for development in general conformance with adjacent land use and the surrounding development pattern. They are not. 45 foot building could well destroy the viability on my 32 year old well-functioning and well-maintained professional dental building.

6. This is Dr. Lorge's 4th attempt to amend the Comprehensive Plan in the past 16 years. None of the prior applications have advanced beyond threshold review. This application should go no further. It is not in this City's best interest. It is only in the applicant's interests.

City of Bellevue



2012 Comprehensive Plan Amendments

Post Office Box 90012 • Bellevue, Washington • 98009 9012

Planning Staff Report

DATE: October 25, 2012

TO: Chair Carlson
Bellevue Planning Commission

FROM: Nicholas Matz, Senior Planner 452-5371
nmatz@bellevuewa.gov

SUBJECT: Lorge-Benis Comprehensive Plan Amendment (12-104629 AC)
November 14, 2012, Final Review Public Hearing (LUC 20.30I.A.1.b)

I. PROPOSAL

Following Threshold Review of the privately-initiated Lorge-Benis Comprehensive Plan Amendment (CPA) on September 4, 2012, the City Council directed the application for Final Review. This private site-specific application would amend the map designation on a three-parcel, .83-acre site from PO (Professional Office) to CB (Community Business). See Attachment 1 for a location map.

At the recommendation of the Planning Commission and of staff the original two-parcel proposal at 4307 (Lorge) and 4317 (Benis) Factoria Boulevard SE was geographically expanded by the City Council to include a third parcel at 4301 (Sherwood). This third parcel is similarly situated and shares characteristics of access, use, and due to its size, dimensional redevelopment issues. The proposal site contains small office buildings on each of 4307 and 4317, and a dental office building on 4301. See Attachment 4 for a site map.

Permit Number: 12 104629 AC
Subarea: Factoria
Address: 4307, 4317 and 4301 Factoria Boulevard SE
Applicant: Lorge/Benis

II. STAFF RECOMMENDATION

This proposal does not satisfy the Decision Criteria for a Comprehensive Plan Amendment and **staff recommends disapproval of the Comprehensive Plan Amendment to:**

- Amend the map designation on a three-parcel, .83-acre site at 4307, 4317, and 4301 Factoria Boulevard SE from PO (Professional Office) to CB (Community Business).

III. BACKGROUND

Site and ownership

Dr. Lorge has a chiropractic practice and has owned his building (4307) since 1996. Mr. Benis and his family have owned their buildings (4317) since 1969. Dr. Sherwood owns a dental practice and has owned his building (4301) since 1982. Dr. Sherwood was not one of the original applicants; noting his opposition to the proposal in a letter dated April 9, 2012, Dr. Sherwood suggested the community vision should foresee the public's health care needs in this Subarea and that given a proper chance for redevelopment, the existing PO parcels could remain an outstanding location for

medical and dental office space. In an August 27, 2012, letter restating his objections, Dr. Sherwood emphasized his view of the transitional nature of the PO district, especially in this area adjacent to the high school, accessible to neighborhoods, and distinct from the Subarea's commercial development focus on Factoria Mall.

The proposal site area includes the Lorge and Sherwood properties each at about .2 acres or 9,000 square feet; the Benis property is about .4 acres or 18,000 square feet. The site is surrounded on three sides by Newport High School parking and by Factoria Boulevard, with its close proximity to the intersection with Newport Way, on the fourth side.

Review and legislative chronology – Factoria Subarea

When Factoria was annexed in 1993 the Comprehensive Plan adapted to a pattern of existing core areas of higher density office and retail that had been allowed by King County codes. The Plan has always contemplated a core commercial area, surrounded by decreasing densities of commercial and residential uses. Annexation created the opportunity to move Factoria farther in the direction of a mixed use urban neighborhood, anchored by the core density areas. See Attachment 3 for a Subarea map.

Plan updates in 1996 and 2005 furthered the vision of a well-integrated, transit-supportive, pedestrian-oriented, mixed-use urban neighborhood in the commercial core area of District 2. Consisting of the CB, OLB, and O districts, the core is intended for some of the most intense commercial redevelopment anticipated outside of Downtown or the Bel-Red Corridor. CB districts typically serve community markets and provide areas for the location of community-serving services and retail outlets. In contrast, PO districts normally provide areas for low-intensity offices in the transition areas at the edges of more intense districts.

In particular, the 2005 Factoria Area Transportation Study (better known by its acronym FATS) set the stage to recognize the core Factoria area as sufficiently able—due to size, proximity, and access—to redevelop into such an urban neighborhood:

Subject PO District

Dr. Lorge submitted multiple site-specific CPA applications in 1996, 2008, 2009, and 2012. Mr. Benis first joined him in the 2012 application. Dr. Sherwood's parcel was for the first time included in 2012 through the expansion of geographic scope, although Dr. Sherwood hasn't applied for a CPA.

The question of appropriate designation was first examined in 1996. When the site was annexed in 1994 it was designated SF-H (Single Family-High). Then in 1996 the city-initiated "Factoria Inconsistencies" CPA proposed a PO (Professional Office) designation for the three parcels. Dr. Lorge requested consideration of O (Office) instead; the City Council remanded the proposal back to the Planning Commission for further consideration of that request. Ultimately, both the Commission recommendation and the final Council action confirmed the PO designation.

Dr. Lorge made a CPA application in 2008 to change from PO to CB. The Planning Commission (5/14/08) recommended to not advance it out of Threshold Review. The Commission recommendation did not find significantly changed circumstances in the Factoria area applicable to the proposal. The Commission acknowledged that other CPAs, for Factoria redevelopment (FATS) and for multifamily residential density (St. Margaret's Church), did have significantly changed redevelopment and affordable housing issues, respectively, but noted that these did not have an influence on the Lorge application. Dr. Lorge withdrew his application before the City Council could take up the Planning Commission recommendation.

Dr. Lorge introduced the idea of constraining development with conditions that would apply to a rezone of the property in the 2009 CPA proposal (also a change to CB). His proposed rezone conditions would have prohibited retail uses on a ground floor office of buildings, and required an affordable housing component in allowed residential uses. Faced with another Planning Commission recommendation (4/22/09) to not advance the application out of Threshold Review he again withdrew the application.

In 2010 Dr. Lorge began to inquire about the City's GMA-mandated Comprehensive Plan Update process. In December 2010 City staff laid out the schedule for adopting the seven-year Comprehensive Plan Update (CPU) that would have occurred in 2011. Subsequent to that the State of Washington moved the Update deadline to 2015 and the city's process was delayed. In 2012, Dr. Lorge and Mr. Benis applied again seeking a change from the PO designation to CB.

IV. DECISION CRITERIA

The Decision Criteria for a Comprehensive Plan Amendment are set forth in the Land Use Code, Section 20.30I.150. Based on the criteria, Department of Planning and Community Development staff recommends disapproval of the proposed amendment. This conclusion is based on the following analysis:

A. There exists obvious technical error in the pertinent Comprehensive Plan provision, or

Not applicable to this proposal.

B1. The proposed amendment is consistent with the Comprehensive Plan and other goals and policies of the city, the Countywide Planning Policies (CPP), the Growth Management Act and other applicable law; and

The proposed amendment is inconsistent with the Comprehensive Plan and other goals and policies of the City for urban growth development in the Factoria Subarea.

This Comprehensive Plan vision is a well-integrated, transit-supportive, pedestrian-oriented, mixed-use urban neighborhood in the commercial core area of District 2. It could be some of the most intense commercial redevelopment anticipated outside of Downtown or the Bel-Red Corridor.

A Community Business (CB) district, even constrained by development conditions, would signal an expansion of the Factoria commercial core. CB in Factoria is appropriate in the commercial core portion of District 2 only, and change to CB is inconsistent with policies that focus commercial development there.

The subject sites are small, with essentially old houses on them, and have problems with the amount, location and access to parking precisely because of the buildings' origin. These constraints create a potential conflict with actually realizing redevelopment because the much larger (than PO) potential for CB onto these sites requires achieving an amount of parking and office space outside of the Downtown which staff believes is not possible on these sites. However, these constraints are ultimately dimensional, not land use-based, and at the PO scale are resolvable for such a small site.

PO remains a deliberate and appropriate designation to reflect the existing and expected use and intensity among the three small and older properties in this area. The PO designation and dimensional requirements are designed to limit the intensity of use of small sites. Just as it would not be appropriate, for example, for an older single family house in a residential neighborhood to be replaced with an office building just because the house was worn out, or because the lot was big enough. More intense office and commercial uses are more appropriately located on larger sites.

The Comprehensive Plan process would be appropriate if the community vision for this area changes, but is not the appropriate path to resolve issues with dimensional standards.

Growth Management Act

The proposal is inconsistent with GMA planning goals encouraging urban growth where adequate public facilities and services exist or can be provided in an efficient manner in specific areas.

Countywide Planning Policies

The Comprehensive Plan is consistent with the framework Countywide Planning Policies (CPP) for King County. If this proposal is found consistent with the Comprehensive Plan, then it would be considered consistent with the CPP.

B2. The proposed amendment addresses the interests and changed needs of the entire city as identified in its long-range planning and policy documents; and

The proposed amendment does not address the interests and changed needs of the entire city. These interests and changed needs intend to create new neighborhoods in areas where they are supported by design, infrastructure, and access considerations, while assuring that less dense neighborhoods continue to have access to support services and retail. This proposal's location is not consistent with where CB designations should be located, and there is no need for additional Community Business designations citywide.

The applicant proposes future rezone conditions which would prohibit ground-floor retail and encourage housing. Limiting retail would be inconsistent with CB. While residential is located across Factoria Boulevard, it is not clear that this site—on that same arterial and also surrounded by a high school parking lot—is a good location for multifamily residential.

B3. The proposed amendment addresses significantly changed conditions since the last time the pertinent Comprehensive Plan map or text was amended. See LUC 20.50.046 [below] for the definition of “significantly changed conditions”; and

Significantly changed conditions are defined as: Demonstrating evidence of change such as unanticipated consequences of an adopted policy, or changed conditions on the subject property or its surrounding area, or changes related to the pertinent Plan map or text; where such change has implications of a magnitude that need to be addressed for the Comprehensive Plan to function as an integrated whole. *This definition applies only to Part 20.30I Amendment and Review of the Comprehensive Plan (LUC 20.50.046).*

Acknowledging that the Planning Commission and City Council found that the proposal met this criterion sufficiently for Threshold Review, it is now given additional consideration under Final Review.

The Factoria Subarea Plan was last updated in 2006 and reaffirmed a focus for commercial activity in and around the Factoria Mall. The subject site has been considered in the past and the Professional Office designation was deemed appropriate as a transitional use between the more intense commercial uses to the north, the surrounding high school, and the residential neighborhood to the east. There is no clear change to the area that was unanticipated by the plan that suggests a need to reconsider the designation of the site.

The Factoria Subarea Plan calls for developing a true mixed use district focused in the commercial core while maintaining distinctly less intense residential, office, and other commercial land use areas elsewhere in Factoria. This proposal doesn't point to any change in the area that suggests a need to revisit that vision for the subarea.

The applicant proposes development conditions to make the proposal more compatible, but such conditions don't, by themselves, create a changed condition that warrants revisiting the vision of the subarea plan.

The proposal also identifies other Comprehensive Plan amendments adopted in the Factoria Subarea as significantly changed conditions. Other adopted amendments do not necessarily equate to changed conditions that are relevant to the proposal. In this instance, the recent amendments, including the development of the St. Margaret's site, do not indicate a need to revisit the planned land used for the Lorge-Benis site. In fact, retaining professional office services continues to be appropriate.

These other Factoria subarea CPAs adopted since 1996 trigger none of the criteria for significantly changed conditions for this proposal because they were adopted consistent with the fundamental concentration of commercial uses in the core commercial district, and do not change conditions relevant to this site. There is no basis for amending the Comprehensive Plan on a site simply because the designation was changed on other sites in the Subarea.

The continued need for housing for specific populations, commercial growth, including that of Walmart at Factoria Mall, and traffic have all been cited as grounds for significantly changing conditions. These factors represent the face of growth, but one that has been anticipated by the Plan.

The proposed amendment does not meet this criterion. It addresses no significantly changed conditions since the last time the Plan map or text was amended in 1996.

B4. If a site-specific proposed amendment, the subject property is suitable for development in general conformance with adjacent land use and the surrounding development pattern, and with zoning standards under the potential zoning classifications; and

For this proposal, the land use/dimensional and transportation impacts of redevelopment of the site under a CB land use district are posed here in broad dimensional terms, and by splitting the examination into a Lorge-Benis and a Sherwood redevelopment in order to mirror the application status.

The Lorge and Benis parcels total 27,000 square feet (9,000 on Lorge and 18,000 on Benis).

The existing building area is 7,800 square feet (2,276 on Lorge and two buildings totaling 5,508 on Benis). The Sherwood parcel totals 9,000 square feet. The existing building area is 6,784 square feet.

Even with Transition building height and setback limits, each of PO and CB designations could allow more building square footage than is currently capable of being placed on the parcels. The space needed for required parking and the non-Downtown 0.5 FAR limit prevent the Lorge-Benis site from achieving these maximums. After the office square foot FAR limit is reached, retail requires a lot more parking than residential. It is therefore likely that any amount of parking would have to go somewhere other than in surface areas. The 30-foot and 45-foot height limits in PO and CB, respectively, would be affected by the slope of the properties to the west down from Factoria Boulevard.

Professional Office

A PO designation could possibly produce a maximum of approximately 19,200 square feet of building space in two stories up to 30 feet high on the combined Lorge/Benis properties. No more than 13,500 square feet of this space could be office as defined by the 0.5 office FAR limit. The setback from property lines would be 30 feet from Factoria Boulevard, 30 feet from Newport High School boundaries, and 20 feet from Factoria Dental (Sherwood). Parking required for such space is approximately 90 stalls, requiring approximately 33,000 square feet of space.

The Sherwood parcel could possibly produce a building size comparable to the one that exists today, or roughly 6,400 square feet, all of which could be professional office. Parking required for such space is approximately 30 stalls, requiring approximately 11,000 square feet of space.

Community Business

A CB designation could possibly produce a maximum of approximately 43,000 square feet of building space in three stories up to 45 feet high only. No more than 13,500 square feet of this space could be office as defined by the 0.5 office FAR limit. The setback from property lines would be 0 feet (10 foot-landscaping only) from Factoria Boulevard, 30 feet from Newport High School boundaries, and 8 feet from Factoria Dental. Parking required for such space is approximately 209 stalls for commercial uses or a total of 83 parking spaces for office and 18 residential units. This latter combination of office and residential parking would require approximately 31,000 square feet of space.

The Sherwood parcel could possibly produce approximately 14,300 square feet of building space under CB. No more than 6,400 square feet of this space could be office as defined by the 0.5 office FAR limit.

Transportation

For transportation-related impacts, the sites are essentially small enough that either PO or CB redevelopment is unlikely to generate trips sufficient to create significant adverse impacts to Factoria Boulevard.

The existing parking agreement (for shared parking between the Lorge and Sherwood properties) was a requirement of King County zoning which granted a ten percent reduction in parking requirements on condition that the properties mutually share parking spaces. If one of these properties redeveloped without the other, review would look to assuring the affected party continued to receive access to parking as defined by the agreement if one of these properties redeveloped without the other.

B5. The proposed amendment demonstrates a public benefit and enhances the public health, safety and welfare of the city.

By being disruptive to the Subarea goal of concentrating community-based intensities in the Factoria commercial core the proposed amendment does not demonstrate a public benefit, and therefore does not enhance the public health, safety and welfare of the city and its residents.

V. STATE ENVIRONMENTAL POLICY ACT

The Environmental Coordinator for the City of Bellevue has determined that this proposal will not result in any probable, significant adverse environmental impacts. A final threshold determination of non-significance (DNS) was issued on October 25, 2012.

VI. PUBLIC NOTICE AND COMMENT

Notice of the Application was published in the Weekly Permit Bulletin and in the Seattle Times on March 1, 2012. Notice of the Public Hearing before the Planning Commission was published in the Weekly Permit Bulletin and in the Seattle Times on October 25, 2012.

Pursuant to the requirements of the Growth Management Act, state agencies must be given 60 days to review and comment on proposed amendments to the Comprehensive Plan. A list of the 2012 amendments to the Bellevue Comprehensive Plan was provided to state agencies on October 19, 2012, for review.

V. NEXT STEPS

We request you conduct and close the public hearing, discuss the proposal, ask questions of staff, and make a recommendation.

VI. ATTACHMENTS

1. Location map
2. Final Review Decision Criteria
3. Factoria Subarea
4. Site map